UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of

ALUMINUM CASTING & ENGINEERING CO., INC.,

Respondent,

and

Cases 30-CA-12855, 12902, 12943, 12944, 12949

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE)

Charging Party

STATEMENT OF POSITION OF CHARGING PARTY UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE) WITH RESPECT TO THE ISSUES RAISED BY REMAND

Now comes the United Electrical, Radio, and Machine Workers of America (UE) (hereinafter the "the Union"), by and through its undersigned counsel, and respectfully files this Statement of Position with Respect to Issues Raised by Remand.

In 1995, the Aluminum Casting & Engineering Co, Inc. (hereinafter "the Employer") violated Section 8(a)(1) and (3) of the Act by failing to continue its practice of conducting annual wage surveys upon which it based annual wage increases because of the employees' protected concerted activities. *Aluminum Casting & Engineering Co., Inc.*, 328 NLRB 8 (1999). In 1999, the Board ordered the Company to "[m]ake whole all employees who were not granted annual wage increases in 1995 to date." *Id.* at 10. Fully fifteen years after the Employer violated the workers' Section 7 rights, the workers still have not been fully compensated. It is now time for justice to finally be served.

After all of these years of litigation, essentially only one issue remained—in crafting a

remedy, should the unlawfully withheld 25-cent wage increase have been incorporated as a permanent addition to the employees' base wage rate and carried forward? The US Court of Appeals for the Seventh Circuit determined that the wage increase should be carried forward and summed up its ruling quite succinctly as follows:

In this petition for review, United Electrical, Radio & Machine Workers of America ("UEW") maintains that the Board's 1995 back pay award should have been incorporated into the employees' "base wage" for that year, so that all subsequent pay raises would be added to a base wage that included this 1995 pay increase. In short, they submit that, beginning in 1996, the employees' "base wage" should have been equal to the wage rate they actually received in 1995 plus an additional twenty-five cents per hour; any additional wage increases they received in 1996 and beyond should have been added to that adjusted "base wage." For the reasons set forth in this opinion, we believe that the UEW is correct. Accordingly, we grant the petition for review, set aside the decision of the Board and remand this case for further proceedings consistent with this opinion. *United Electrical, Radio and Machine Workers of America (UE) v. NLRB*, 580 F.3d 560, 562 (7th Cir. 2009).

The Court of Appeals reasoning is sound. As such, the Union respectfully requests that the Board expeditiously adopt the holding and rationale of the Court of Appeal's ruling, and order the Employer to make the discriminatees whole by incorporating the withheld wage increase as a permanent addition to the workers' base wage rate from 1995 and carried through to the present.

Dated at Pittsburgh, PA, this 29th day of April, 2010.

Respectfully Submitted,

/s/ Joseph Cohen /s/

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing STATEMENT OF POSITION OF CHARGING PARTY UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE) WITH RESPECT TO THE ISSUES RAISED BY REMAND has been sent this 29th day of April, 2010 by electronic mail to Kevin J. Kinney, Counsel for the Respondent, at <u>KJK@kclegal.com</u> and Irving E. Gottschalk, Regional Director of Region 30 at irving.gottschalk@nlrb.gov.

_/s/ Joseph Cohen /s/	
Joseph Cohen	_